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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

NEFTALI MONTERROSA, individually and as co-successor-in-interest to Decedent SEAN MONTERROSA; NORA MONTERROSA, individually and as co-successor-in-interest to Decedent SEAN MONTERROSA; MICHELLE MONTERROSA, individually; ASHLEY MONTERROSA, individually,

**Plaintiff,**

VS.

CITY OF VALLEJO, a municipal corporation; JARRETT TONN, individually, and, Vallejo police officers DOES 1-25, inclusive.

## Defendants

**Case No:** 2:20-cv-01563-TLN-DB

**DEFENDANTS' REPLY IN SUPPORT  
OF MOTION FOR ORDER  
GRANTING INTRA-DISTRICT  
TRANSFER OF VENUE TO FRESNO  
DIVISION OF EASTERN DISTRICT;  
DECLARATION OF MEERA BHATT  
IN SUPPORT THEREOF**

**Date:** December 3, 2020

**Time:** 2:00 p.m.

Ctrm: 2

1       **I. Introduction and Background**

2              Since Defendants filed their Motion for an Order Granting Intra-District Transfer  
3 (“Motion”), the frenzy of inflammatory and prejudicial publicity has continued unabated, as  
4 detailed in the accompanying declaration of Meera Bhatt.

5              For example, media accounts:

- 6              • Denounce the City of Vallejo as ruled by a deadly police force that has taken over the  
7              City’s politics and threatened its people after years of impunity. (Bhatt Decl. ¶ 9).
- 8              • Broadly paint Vallejo police officers as shooting people running away, firing dozens  
9              of rounds at unarmed men, using guns in off-duty arguments, and beating the  
10              mentally ill, but still rising through the ranks. (Bhatt Decl. ¶ 9).
- 11              • Refer to decedent Sean Monterrosa’s shooting as “one more in an ongoing litany of  
12              police killings.” (Bhatt Decl. ¶ 9).
- 13              • Criticize the City as failing to hold its officers accountable. (Bhatt Decl. ¶ 9).
- 14              • Depict the decedent as a hero fighting for police reform who was killed shortly after  
15              he texted his sisters asking them to sign a petition calling for justice for George  
16              Floyd. (Bhatt Decl. ¶ 9).
- 17              • Refer to the President of the Vallejo Police Officers Association Lieutenant Michael  
18              Nichelini as “Mussolini” due to an alleged reputation for racism in the community;  
19              claim that Lieutenant Nichelini participated in suppressing an antiwar demonstration  
20              and asked a boy if he was a “nigga or ese;” and assert that Lieutenant Nichelini threw  
21              a suspect to the ground and knelt on his back as the suspect said “I can’t breathe.”  
22              The reader could not miss the obvious link to George Floyd’s killing. (Bhatt Decl. ¶  
23              9).

24              The accompanying declaration and Defendants’ moving papers set forth a multitude of  
25              additional examples. (Bhatt Decl. ¶ 2-8, 10).

26              The wave of inflammatory and prejudicial pretrial publicity has spread throughout the  
27              Bay Area and Sacramento. Plaintiffs are depicted as heroes fighting for social justice. In  
28              contrast, Officer Tonn is decried as a murderer and the City as complicit. For example, on

1 October 3, 2020, a crowd of protestors donning shirts that read “Justice for Sean Monterrosa”  
2 surrounded Governor Gavin Newsom’s home in Sacramento and the State Capitol. (Bhatt Decl.  
3 ¶ 2-6, 8). Decedent’s sisters, Ashley and Michelle Monterrosa, were among the crowd of  
4 protestors. (Bhatt Decl. ¶ 2-6, 8). They publicly denounced Officer Tonn as a “murderer” and  
5 demanded Governor Newsom “make a statement, appoint a special prosecutor, fire, arrest, and  
6 charge Officer Jarrett Tonn for murdering our brother.”<sup>1</sup> (Bhatt Decl. ¶ 2-5). Michelle  
7 Monterrosa told Sacramento reporters, “Sean was not the only person who Vallejo police have  
8 killed, but we’re here to make sure he will be the last one.” (Bhatt Decl. ¶ 4).

9       The protestors, including decedent’s sisters, were arrested in front of Governor  
10 Newsom’s home and charged with various misdemeanors. (Bhatt Decl. ¶ 2-6). Sacramento  
11 reporters asked Governor Newsom if he would be willing to speak with the Monterrosa family  
12 following the sisters’ arrests. (Bhatt Decl. ¶ 5-8). In response, Governor Newsom publicly  
13 promised he would have his staff take a more detailed look as to why the Attorney General chose  
14 not to move forward in terms of a criminal investigation, expressed appreciation to the Attorney  
15 General for “moving forward as it relates to police practices” in Vallejo, and announced that he  
16 was open to meeting with the Monterrosa family. (Bhatt ¶ 6-8). The Monterrosa sisters called  
17 this a step in the right direction, but an empty and meaningless gesture unless the Governor  
18 scheduled a meeting them that week. (Bhatt Decl. ¶ 6-8). On November 23, 2020, news broke  
19 that decedent’s sisters had been invited to participate in a meeting with the incoming Biden-  
20 Harris transition team to discuss criminal justice policy proposals. (Bhatt Decl. ¶ 10).

21       The inflammatory and prejudicial publicity is not likely to die down. The shooting took  
22 place nearly six months ago on June 2, 2020 and, as shown, still incites protesters and wholesale  
23 denouncements of the City of Vallejo and its officers. The political limelight continues to shine  
24 on this case, as shown by Governor Newsom and the incoming administration’s recent overtures  
25 towards Plaintiffs and their role in potentially shaping national police reform. Given the City’s  
26 pending civil rights cases alleging excessive force, its well-publicized settlements any time a  
27

28 <sup>1</sup> The City has not identified Officer Jarrett Tonn as the shooter. However, Plaintiffs and media reports have  
speculatively reported that he is the shooting officer.

1 case reaches resolution, the one-dimensional narratives condemning the Vallejo Police  
2 Department, and the emotion this case has stirred in both the Bay Area and Sacramento, time is  
3 not likely to blunt the impact of the barrage of inflammatory publicity.

4 When emotions are high and when inflammatory publicity paints one side as heroes and  
5 the other as murderers, the Court's role as protector of due process remains especially vital. An  
6 order granting an intra-district transfer to the Fresno division of the Eastern District will ensure a  
7 fair trial by an unbiased jury for both parties.

8 **II. Legal Argument**

9 **A. Defendants Have Met the Presumed Prejudice Standard, Though Not  
Required to Do So, as the Court May Order the Transfer Based on its Broad  
Supervisory Authority**

10 The California Supreme Court states:

11 A motion for change in venue *shall* be granted whenever it is  
12 determined that because of the dissemination of potentially  
13 prejudicial material, there is a reasonable likelihood that in the  
14 absence of such relief, a fair trial cannot be had. An actual showing  
15 of prejudice shall not be required. The phrase 'reasonable  
likelihood' denotes a *lesser standard of proof than 'more probable  
than not.'*

16 *Martinez v. Superior Court of Placer County*, 29 Cal.3d 574, 578 (1981)(emphasis added). As  
17 the Ninth Circuit has recognized, California Supreme Court decisions are persuasive authority.

18 *Dimidowich v. Bell*, 803 F.2d 1473, 1482 (9th Cir. 1986). Defendants need only show a  
19 reasonable likelihood that the right to an impartial jury has been impacted by pretrial publicity.

20 *United States v. Crow Dog*, 532 F.2d 1182, 1187 (9th Cir. 1976).

21 The evidence presented in support of this Motion and Reply entitle Defendants to a  
22 presumption of prejudice. Prejudice may be presumed where publicity causes a wave of public  
23 passion, thus depriving defendants of their due right to a fair trial by an impartial jury. *Patton v.  
Yount*, 467 U.S. 1025, 1031 (1983). Prejudice may also be presumed where pretrial publicity is  
25 so pervasive and inflammatory as to saturate the community. *Rideau v. Louisiana*, 373 U.S. 723  
26 (1963). Here, Defendants have introduced extensive evidence of the inflammatory publicity  
27 related to this case and its consequences. As detailed in the Motion, this Reply, and Defendants'  
28 Motion for Protective Order, the incident has generated a wave of articles, press releases, and

1 social media postings demonizing the City of Vallejo and its officers, calling for the termination  
2 and criminal prosecution of Officer Tonn, and repeating Plaintiffs' counsel's baseless  
3 accusations that the City destroyed video evidence and engaged in a cover-up. The prejudicial  
4 publicity related to this case spans the entire Bay Area and Sacramento, all but ensuring that  
5 Defendants will not receive a fair trial.

6 Even assuming the presumed prejudice bar is not met, the Court has discretion to grant  
7 this motion under its broad supervisory authority. In *Marshall v. United States*, the U.S.  
8 Supreme Court stated, "the trial judge has large discretion in ruling on the issue of prejudice."  
9 *Marshall v. United States*, 360 U.S. 310,312 (1959). The *Marshall* rule is "considerably broader  
10 than the constitutional standard and provides more protection against prejudice." *United States v.*  
11 *Williams*, 586 F.2d 464, 469. In *Rideau v. Louisiana*, Justice Clark noted the "very significant  
12 difference between matters within the scope of our supervisory power and matters which reach  
13 the level of constitutional dimension." *Rideau v. Louisiana*, 373 U.S. 723, 729 (1963)(Clark, J.,  
14 dissenting).

15 Courts have applied the *Marshall* standard in ordering venue changed based on  
16 prejudicial pretrial publicity. In *United States v. Tokars*, the Court deemed its decision to  
17 transfer venue based on its supervisory authority as "not a close one." The Court noted the  
18 extensive pretrial publicity. Though most of it was factual, the coverage appeared extensive and  
19 had an emotional impact on listeners. *United States v. Tokars*, 839 F.Supp.1578 (1993). In  
20 *United States v. Engleman*, the Court granted defendants' motion to change venue based on its  
21 supervisory authority, citing *Marshall*. Due to prejudicial pretrial publicity, which included  
22 newspaper articles referring to the defendant as a "murderer" and radio and television broadcasts,  
23 the Court concluded that effective and economic judicial administration would not be served by  
24 questioning an inordinate number of prospective jurors to see if an unbiased could be obtained.  
25 *United States v. Engleman*, 489 F.Supp.48 (1980). As discussed in the moving papers, Plaintiffs  
26 and their counsel have repeatedly characterized the incident as a murder and referred to Officer  
27 Tonn as a murderer.

28 Here, Defendants have shown presumed prejudice, which mandates a change in venue.

1 Contrary to Plaintiffs' claim, Defendants are not required to show such presumed prejudice for  
2 the Court to grant an intra-district transfer. Rather, the Court may grant this motion based on its  
3 broad supervisory authority. Here, Defendants' due process rights and the considerations of  
4 effective and economic judicial administration favor granting an intra-district transfer.

5       **B. While Defendants Have Detailed the Extensive and Inflammatory Nature of  
6 the Pretrial Publicity, a Change in Venue May be Required Even when the  
Publicity is Primarily Factual**

7       Defendants' Motion for Protective Order, this Motion, and Reply detail a multitude of  
8 examples of inflammatory and prejudicial pretrial publicity. Plaintiffs have tried their case in the  
9 media with a 46-minute press conference replete with demonstrative exhibits, and by spreading  
10 baseless accusations that Defendants destroyed video footage and engaged in a "cover up."<sup>2</sup>  
11 The one-sided prejudicial publicity in both the Bay Area and Sacramento has inflamed the  
12 community, as shown by recent protests in Sacramento, arrests, deployment of the National  
13 Guard to Vallejo and Sacramento in the wake of protests over police reform, looters, and  
14 violence. Against the continued political spotlight and unbroken narrative of Plaintiffs as the  
15 "good guys" and Defendants as the "bad guys," ensuring an unbiased jury in the Bay Area and  
16 Sacramento is unrealistic.

17       Although Defendants have detailed a multitude of examples of inflammatory prejudicial  
18 publicity, a change in venue may be required even when the publicity is not inflammatory. As  
19 the California Supreme Court states,

20       ... the fact that the publicity was factual and not inflammatory or  
21 sensational is not controlling. A reasonable likelihood of  
22 unfairness may exist even though the news coverage was neither  
inflammatory nor productive of overt hostility. When a spectacular  
23 crime has aroused community attention and a suspect has been  
arrested, the possibility of an unfair trial may originate in  
widespread publicity describing facts, statements, and  
24 circumstances which tend to create a belief in his guilt. *People v.  
Jennings* 53 Cal.3d 334, 362 (1991).

25       See *Corona v. Superior Court*, 24 Cal.App.3d 872, 876, with same language.  
26

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27       <sup>2</sup> Plaintiffs characterize this Motion as duplicitous based on Defendants' limited release of information to the public.  
28 However, the City's release of information is fundamentally different from Plaintiff's extensive campaign, both in  
its aim and scope, as detailed in Defendants' reply in support of its Motion for Protective Order.

1       In *Corona v. Superior Court*, the Court of Appeal issued a writ of mandate directing the  
2 lower court to grant petitioner's motion for change of venue. The Court held that the outpouring  
3 of incriminatory publicity created a reasonable likelihood of an unfair trial. In so ruling, the  
4 Court stated:

5           When community attention is focused upon the suspect of a  
6 spectacular crime, the news media's dissemination of  
7 incriminatory circumstances sharply threatens the integrity of the  
8 coming trial. The prosecution may never offer the "evidence"  
9 served up by the media. It may be inaccurate. Its inculpatory  
10 impact may diminish as news facts develop. It may be  
inadmissible.... If it is ultimately admitted at the trial, the  
possibility of prejudice still exists, for it had entered the minds of  
potential jurors without the accompaniment of cross-examination  
or rebuttal.

11 *Id.* at 878.

12       In *Williams v. Superior Court*, the California Supreme Court issued a writ of mandate  
13 directing the lower court to grant a change of venue. "The news coverage, for the most part,  
14 consisted of factual accounts of the progress of the case. Nevertheless, even factual accounts, if  
15 continuous and extensive enough, can be potentially prejudicial." *Williams v. Superior Court*, 34  
16 Cal.3d 584, 803 (1983). The Court noted that the "greatest factor weighed towards a change of  
17 venue" was the extensive coverage by the media. *Id.* at 804.

18       Thus, contrary to Plaintiffs' claim, Defendants need not prove inflammatory coverage  
19 for the Court to grant this motion, though Defendants have done so. As shown by this Motion,  
20 Defendants' Motion for Protective Order, and this Reply, the media coverage in this case has  
21 been inflammatory and extensive, has continued unabated since the shooting, and is likely to  
22 continue. This case has and continues to arouse community attention in both the Bay Area and  
23 Sacramento.

24       Not only has the publicity been inflammatory, the litany of so-called factual accounts  
25 portrays Defendants as the wrongdoers and Plaintiffs as do-gooders fighting for reform. Such  
26 narratives have become "viral" in this age of social media. As the coverage tends to create a  
27 belief that Defendants are in the wrong it threatens the integrity of the trial. While such materials  
28 may not be admissible at trial, the damage will already have been done as they would have

1 entered jurors' minds without the benefit of a cross exam or a rebuttal. Simply put, the bell  
2 cannot be unrung.

3       **C.     The Political Nature of this Case in the Bay Area and Sacramento Justify  
4                   Intra-District Transfer of Venue**

5                   As the California Supreme Court states, "political factors have no place in a ...  
6 proceeding, and when they are likely to appear, they constitute an *independent reason* for a  
7 venue change." *Maine v. Superior Court*, 68 Cal.2d 374, 387 (1968) (emphasis added). There is  
8 no denying the politicization of this case. As detailed in the Motion and in this reply, the  
9 Monterrosa shooting has sparked a political firestorm at every level of government and garnered  
10 comments and criticisms against the City from political leaders including Governor Newsom and  
11 House Speaker Nancy Pelosi.

12                  The size of Sacramento is not dispositive, contrary to Plaintiff's claim. In fact, cases  
13 have been transferred from much larger counties in the past. In the trial of the officers charged  
14 with assaulting Rodney King, the Court of Appeal issued a writ of mandate directing the lower  
15 court to grant the motion for a change of venue outside of Los Angeles County, stating that the  
16 size of a community was not controlling and that each case must turn on its own facts. *Powell v.  
17 Superior Court*, 232 Cal.App.3d 785 (1991). In so ruling, the Court noted the politicization of  
18 the case and the threat that political biases would invade the jury box, emphasizing that political  
19 factors constitute an independent reason for venue change. Based on the politicization of the  
20 case, the community attention, and the extent of coverage, the Court held that venue should be  
21 transferred out of Los Angeles County. Los Angeles has a population of about ten million, while  
22 Sacramento's population is approximately 1.5 million. In the murder trial for former BART  
23 police Officer Johannes Mehserle, the Court agreed that Mehserle would not receive a fair trial in  
24 Alameda County since many within the community suspected the killing was an example of  
25 police brutality and was racially motivated. The Court ordered the trial moved out of Alameda  
26 County due to the massive publicity the case had received.<sup>3</sup>

27                  As these cases show, the pivotal question is not the size of Sacramento County, but

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28                  <sup>3</sup> <https://www.sfexaminer.com/news/judge-grants-change-of-venue-in-bart-shooting-case/>

1 whether the size of the community has neutralized the impact of the publicity. *People v.*  
2 *Jennings*, 53 Cal.3d 334, 363 (1991), stating “the size of the county is not alone determinative.”  
3 Sacramento’s size has not neutralized the political impact of this case six months after the  
4 shooting, as shown by protestors’ arrests, protests, media coverage in Sacramento, and Governor  
5 Newsom’s publicly proclaimed willingness to meet with decedent’s sisters. Thus, Sacramento’s  
6 size does not stave off the danger that jurors may render a verdict based not on the evidence but  
7 upon their sympathies for decedent’s family, political convictions, to be part of reform, or to  
8 make the City pay for its “crimes.”

9           **D. Deferring Transfer Neither Ensures Due Process nor Serves the Interests of**  
10           **Effective and Economic Judicial Administration**

11           This incident has incited strong emotion, aroused deep political convictions, and has  
12 become a battleground for police reform. In such a case, the threat that bias, conviction, and  
13 emotion poses to the promise of an unbiased jury amplifies. Voir dire can only go so far in  
14 protecting the parties’ right to a fair trial, as the Supreme Court has warned. *Sheppard v.*  
15 *Maxwell*, 384 U.S. 333, 363 (1966). For example, jurors may assure impartiality for the chance  
16 to be part of history or hold the City accountable for perceived past wrongs. Or jurors may be  
17 completely honest in denying prejudice, unaware they have been biased by pretrial publicity. As  
18 the Supreme Court instructs, “reversals are but palliatives” and the “cure lies in those remedial  
19 measures that will prevent the prejudice at its inception.” *Id.* In this case, these dangers are  
20 heightened given the unending barrage of prejudicial publicity and Plaintiffs’ media campaign  
21 that has targeted Defendants.

22           Additionally, deferring a ruling may create problems that are difficult to cure. The  
23 defense is entitled to seek writ review should this motion be denied before jury selection. *Maine*  
24 *v. Superior Court*, 68 Cal.2d 475 (1968). Would the motion be heard after the first or the fortieth  
25 juror who demonstrates bias? Additionally, the process of voir dire itself could serve to bias  
26 jurors who hear the questioning of other prospective jurors. Moreover, days would likely be  
27 needed to conduct thorough and detailed voir dire of a multitude of prospective jurors to assure  
28 an impartial jury. Thus, deferring transfer does not ensure due process and does not serve the

1 interests of effective and economic judicial administration.

2       **E. Intra-District Transfer to the Fresno Division is Justified under 28 U.S.C.  
3           Section 1404**

4       The interest of justice is the most important and decisive consideration in determining  
5 whether to transfer a case under section 1404(a), even if the convenience of witnesses and parties  
6 point the other way. *Bankers Trust Co. v. Crawford*, 558 F.Supp.1359 (W.D.N.Y. 1983); *Pratt v.*  
7 *Rowland*, 769 F. Supp. 1128 (N.D. Cal 1991). The Court is duty-bound to protect Defendants'  
8 right to a fair trial when a fair trial cannot be had in the place where an action was filed due to  
9 massive adverse publicity. *Wash. Pub. Utilities Group. V. U.S. Distr. Court*, 843 F.2d 319, 326  
10 (9th Cir. 1987). Plaintiffs' choice of forum is only a single factor and should not be given  
11 disproportionate weight. It may be outweighed by more compelling considerations. *Norwood v.*  
12 *Kirkpatrick*, 329 U.S. 29 (1955); *Moore v. Teflon Communications Corp.*, 589 F.2d 959 (9<sup>th</sup> Cir.  
13 1978). Here, given the politicization of this case, the prejudicial pretrial media coverage in  
14 Sacramento and the Bay Area, the interests of justice weigh in favor of transfer.

15       While the interests of justice is the determinative factor and outweighs other factors, the  
16 intra-district transfer serves judicial economy. Defendants' are not asking for a transfer outside  
17 of the Eastern District. Moreover, the court in Fresno has adopted the use of Zoom for hearings  
18 to allay any inconvenience. Defendants have conducted a review of pertinent documents and  
19 police reports in this case and based upon this review, believe that most of the witnesses are  
20 likely to be Vallejo Police Officers who travel as a regular part of their job. Even if this were not  
21 the case, the right to a fair trial by an impartial jury is a constitutional guarantee that must be  
22 protected.

23       **III. Conclusion**

24       The standard for intra-district transfers is less rigorous than in motions to transfer venue.  
25 *See Edwards v. Sanyo Mfg. Corp.*, No. 3:05CV00293-WRV U.S. Dist. LEXIS 98123 (E.D. Ark.  
26 Feb 27, 2007); *Johnson v. Burlington-Northern, Inc.*, 480 F. Supp.259, 260 (W.D. Mo. 1979).  
27 Transfer will ensure both parties' rights to a fair trial are protected and safeguard Defendants'  
28 due process rights to an impartial jury, which is vital in this case. Defendants have met their

1 burden of proof and there is a reasonable likelihood—it is more probable than not—that a fair  
2 trial cannot be had in the Bay Area or Sacramento based on the nature and extent of publicity and  
3 the politicization of this case. Defendants respectfully request the Court issue an order granting  
4 its motion for an intra-district transfer, transferring this case to the Fresno division of the Eastern  
5 District, and awarding any different or further relief it deems appropriate.

DATED: November 30, 2020

Respectfully submitted,

/s/ Meera Bhatt  
MEERA BHATT  
KATELYN M. KNIGHT  
FARRAH HUSSEIN  
Attorneys for Defendants  
CITY OF VALLEJO and JARRETT TONN

## **DECLARATION OF MEERA HATT**

I, Meera Bhatt, hereby declare and state:

1. I am an attorney-at-law licensed to practice in the State of California and I am an Assistant City Attorney in the Vallejo City Attorney's Office. I am one of the attorneys responsible for handling the defense of this matter on behalf of the Defendants. I have personal knowledge of the matters set forth in this Declaration, except where stated on information and belief, and could and would competently testify to them under oath if called as a witness.

2. Attached as Exhibit 1 to this declaration is a true and correct copy of a news article in KQED news dated October 3, 2020 entitled “Monterrossa Sisters Arrested Protesting Outside Newsom’s Home.”

3. Attached as Exhibit 2 to this declaration is a true and correct copy of a news article dated October 3, 2020 in KHSU entitled “Monterrosa Sisters Arrested Protesting Outside Newsom’s Home.”

4. Attached as Exhibit 3 to this declaration is a true and correct copy of a news article dated October 3, 2020 in CBS Local Sacramento entitled “Group Protests at Newsom’s Fair Oaks Home Over Police Killing of Sean Monterrosa in Vallejo; 17 Arrested.”

5. Attached as Exhibit 4 to this declaration is a true and correct copy of a news article dated October 5, 2020 in ABC 7 News entitled, "Sisters of Man Shot, Killed by Vallejo police Arrested outside Gov. Newsom's Home for Protesting."

6. Attached as Exhibit 5 to this declaration is a true and correct copy of a news article dated October 9, 2020 in Hip Latina entitled “Sean Monterrosa’s Sisters Arrested for Protesting Outside Calif. Governor’s Home.”

7. Attached as Exhibit 6 to this declaration is a true and correct copy of a news article dated November 9, 2020 in ABC 7 news entitled, "Gov. Newsom Open to Meeting with Family of Man Shot, Killed by Vallejo Police."

8. Attached as Exhibit 7 to this declaration is a true and correct copy of a news article dated November 13, 2020 in ABC 10 entitled “Family of man killed by Vallejo Police says Gov. Newsom Willing to Look into Incident.”

9. Attached as Exhibit 8 to this declaration is a true and correct copy of a news article dated November 16, 2020 in the New Yorker entitled "How a Deadly Force Ruled a City."

10. Attached as Exhibit 9 to this declaration is a true and correct copy of a news article dated November 25, 2020 in ABC 7 news entitled, "Sisters of Vallejo Police Shooting Victim Meet with Biden-Harris Transition Team."

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

/s/ Meera Bhatt  
Meera Bhatt

# EXHIBIT 1<sup>to</sup>

DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRADISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF

## NEWS

# Monterroso Sisters Arrested Protesting Outside Newsom's Home

By Ericka Cruz Guevarra  Oct 3



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Ashley and Michelle Monterrosa, the sisters of Sean Monterrosa, were arrested and reportedly scheduled for release at 6 a.m. Saturday morning after being detained in Sacramento County Jail. Sacramento inmate logs say Ashley and Michelle were released Saturday.

Their brother Sean, a 22-year-old from San Francisco, was killed by a Vallejo police officer who fired a semi-automatic rifle through the windshield of an unmarked police vehicle on June 2 as officers responded to reports of a break-in at a Walgreens.

Police said the officer fired after mistaking a hammer tucked into Monterrosa's sweatshirt for a gun.

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Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 17 of 104  
justice4sean\_  
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# BREAKING NEWS:



THE MONTERROSA SISTERS HAVE  
BEEN ARRESTED DEMANDING JUSTICE  
FOR THEIR BROTHER SEAN.

## #FREETHESISTERS



@GATHER4JUSTICE

@JUSTICE4SEAN\_

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3,584 likes

justice4sean\_

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About 17 protesters were arrested Friday during a protest staged on the driveway of the governor's home demanding Newsom appoint a special prosecutor to investigate the case.

As it stands, no criminal investigation into the Monterroso shooting is currently underway; Solano County District Attorney Krishna Abrams recused herself from investigating the case, and Attorney General Xavier Becerra has not committed to investigating, either.

The Monterroso sisters were taken to the Capitol Protection Section office in Downtown Sacramento and charged with trespass, unlawful assembly, failure to disperse, failure to disperse at a public disturbance, and conspiring to commit a crime against the governor, according to California Highway Patrol.

In a statement, CHP said they met with protest organizers and issued several dispersal orders, "advising them to leave voluntarily or face arrest."

"We're not doing anything," the sisters could be heard saying in a livestream posted to Instagram before their arrest. "We are unarmed, we are being very civil, and we just want a conversation. We want Gavin Newsom to make a statement, appoint a special prosecutor, fire arrest and charge [Officer] Jarrett Tonn for murdering our brother."

The officer who shot Sean Monterroso has still not been identified by the city of Vallejo or its Police Department, though local reporters have identified him as Detective Jarrett Tonn.

In August, the Monterroso family [filed a federal civil rights lawsuit](#) for wrongful death against the city of Vallejo and Tonn.

 **Terisa Siagatonu**  
@terisasiamatonu



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**Monterroso's death** marked the first fatal police shooting in Vallejo since the death of George Floyd in Minneapolis sparked nationwide protests against police violence, including in Vallejo.

Protests and a renewed eruption of anger among Vallejo residents have also been marred by allegations that evidence in the Monterroso case was destroyed.

Chief Williams confirmed the windshield the officer fired through was not preserved as evidence. California Attorney General Xavier Becerra announced in July that his office would investigate the destruction of evidence in the case.

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DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRADISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF

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# Monterrosa Sisters Arrested Protesting Outside Newsom's Home

By EDITOR • OCT 3, 2020

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The sisters of a young Latino man shot and killed by Vallejo Police earlier this summer were arrested while protesting outside Gov. Gavin Newsom's house Friday afternoon to mark the four-month anniversary of their brotherâ??s death.

Ashley and Michelle Monterrosa, the sisters of Sean Monterrosa, were arrested and reportedly scheduled for release at 6 a.m. Saturday morning after being detained in Sacramento County Jail. Sacramento inmate logs say Ashley was released Saturday ([https://www.sacsheriff.com/inmate\\_information/SearchNames.aspx](https://www.sacsheriff.com/inmate_information/SearchNames.aspx)) but did not show records for Michelle.

Their brother Sean, a 22-year-old from San Francisco, was killed by a Vallejo police officer who fired a semi-automatic rifle through the windshield of an unmarked police vehicle on June 2 as officers responded to reports of a break-in at a Walgreens.

Police said the officer fired after mistaking a hammer tucked into Monterrosa's sweatshirt for a gun.

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Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 24 of 104

(<https://www.instagram.com/p/CF3Og1QhzDT/>?)

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we wanna thank everyone whoâ??s been concerned about the Monterrosa sisters and asking how they can help so far we only know that they have been detained. We havenâ??t heard any new updates yet. We will be posting story updates as soon as we know more. Please continue to keep them in your prayers. All gas no breaks! (<https://www.instagram.com/p/CF3Og1QhzDT/>?)

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A post shared by @ justice4sean\_ ([https://www.instagram.com/justice4sean\\_/?utm\\_source=ig\\_em...](https://www.instagram.com/justice4sean_/?utm_source=ig_em...)

About 17 protesters were arrested Friday during a protest staged on the driveway of the governor's home demanding Newsom appoint a special prosecutor to investigate the case.

As it stands, no criminal investigation into the Monterrosa shooting is currently underway; Solano County District Attorney Krishna Abrams recused herself from investigating the case, and Attorney General Xavier Becerra has not committed to investigating, either.

The Monterrosa sisters were taken to the Capitol Protection Section office in Downtown Sacramento and charged with trespass, unlawful assembly, failure to disperse, failure to disperse at a public disturbance, and conspiring to commit a crime against the governor, according to California Highway Patrol.

â??Weâ??re not doing anything,â?? the sisters could be heard saying in a livestream posted to Instagram before their arrest. â??We are unarmed, we are being very civil, and we just want a conversation. We want Gavin Newsom to make a statement, appoint a special prosecutor, fire arrest and charge [Officer] Jarrett Tonn for murdering our brother.â??

The officer who shot Sean Monterrosa has still not been identified by the city of Vallejo or its Police Department, though local reporters have identified him as Detective Jarrett Tonn.

In August, the Monterrosa family filed a federal civil rights lawsuit

(<https://www.kqed.org/news/11832113/sean-monterrosas-family-sues-trigger-happy-officer-city-of-vallejo-over-police-killing>) for wrongful death against the city of Vallejo and Tonn.

SHAME ON YOU @GavinNewsom ([https://twitter.com/GavinNewsom?ref\\_src=twsrc%5Etfw](https://twitter.com/GavinNewsom?ref_src=twsrc%5Etfw)) for allowing the sisters of Sean Monterrosa to be arrested today on the 4 month anniversary of his death. Sean was shot 5x by VallejoPD during a #BLM ([https://twitter.com/hashtag/BLM?src=hash&ref\\_src=twsrc%5Etfw](https://twitter.com/hashtag/BLM?src=hash&ref_src=twsrc%5Etfw)) protest. Youâ??ve said nothing. No investigation/arrests. Yet you arrest his sisters for demanding answers pic.twitter.com/aY8KdBAWfv (<https://t.co/aY8KdBAWfv>) – Terisa Siagatonu (@terisasiagatonu) October 2, 2020

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Monterrosa's death (<https://www.kqed.org/news/11829628/pelosi-murder-of-sean-monterrosa-a-horrible-act-of-brutality>) marked the first fatal police shooting in Vallejo since the death of George Floyd in Minneapolis sparked nationwide protests against police violence, including in Vallejo.

Chief Williams confirmed the windshield the officer fired through was not preserved as evidence. California Attorney General Xavier Becerra announced in July that his office would investigate the destruction of evidence in the case.

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DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRA-DISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF



# Group Protests At Newsom's Fair Oaks Home Over Police Killing Of Sean Monterrosa In Vallejo; 17 Arrested

Categories: [News](#), [Local News](#), [KOVRTV](#), [Top Story](#)

Group Protests At Newsom's Fair Oaks Home Over Police Killing Of Sean Monterrosa In Vallejo; 17 Arrested



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Authorities arrested 17 people after a group calling on state officials to take action in the police killing of Sean Monterrosa in Vallejo in June held a protest in the driveway of Gov. Gavin Newsom's Fair Oaks home on Friday, the California Highway Patrol said.

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# Sisters of man shot, killed by Vallejo [REDACTED] arrested outside Gov. Newsom's home for protesting

The sisters say they want to speak to the Governor about their brother's death but have received no response from his office.

By Melanie Woodrow

Monday, October 5, 2020

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Governor Gavin Newsom is responding to the arrest of two sisters outside his home, who were protesting on the anniversary of their brother being shot and killed by Vallejo Police.

SACRAMENTO, Calif. (KGO) -- Governor Gavin Newsom is responding to the arrest of two sisters outside his home who were protesting on the anniversary of their brother being shot and killed by Vallejo Police.

ABC7 News I-TEAM reporter Melanie Woodrow has covered Sean Monterrosa's case for years.

Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 34 of 104  
since June. Monday she asked Governor Newsom if he'd be willing to meet Monterrosa family.

## **RELATED: Vallejo police officer shoots, kills 22-year-old on his knees after mistaking hammer for gun, chief says**

Protesters gathered outside Governor Gavin Newsom's Sacramento home Friday afternoon on the 4-month anniversary of Vallejo police shooting and killing Sean Monterrosa.

Sisters Michelle and Ashley Monterrosa were in the crowd.

"We were practicing our First Amendment right which is freedom of speech and we posed no threat," said Michelle Monterrosa.

The sisters say they want to speak to Governor Newsom about their brother's death but have received no response from his office.

On June 2, a Vallejo Police Officer fired from the backseat of an unmarked vehicle through the windshield, hitting and killing Monterrosa. He was outside a Walgreens where there had been a looting.

## **VIDEO: Vallejo police release bodycam footage from fatal shooting of Sean Monterrosa**

Vallejo police released body camera video from the June 2 fatal shooting of Sean Monterrosa Wednesday. Officers shot and killed Monterrosa through the windshield of a patrol car following a night of looting.

Vallejo Police say he was crouching down in a half-kneeling position, moving his hands towards his waist area revealing what they thought was the butt of a handgun. It turned out to be a hammer.

The officer's body camera video captured the following exchange:

"What did he point at us," asks the officer who fired.

"I don't know man," says another officer.

"Hey. he pointed a gun at us," says the officer who fired.

## **RELATED: Family speaks out after Vallejo police mistake hammer for gun and shoot, kill 22-year-old**

Solano County District Attorney Krishna Abrams recused herself from the case. The state's top law enforcement official, Attorney General Xavier Becerra, also recused himself. Becerra's office said the state's attorney general does not have the authority to investigate police shootings that occur within a city's boundaries. The Solano County Sheriff's Office General declined to investigate though the AG's office is investigating the death.

Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 36 of 104  
windshield, which was evidence.

The protesters call to the governor?

"With this protest we just wanted him to break his silence," said Michelle Monterrosa.

Instead, the CHP Capitol Protection Section arrested 17 protesters including Michelle and Ashley.

"Governor Newsom, shame on you! Shame on you," shouted another protester.

"For him to come at us full force the way we were arrested, it hurts," said Michelle Monterrosa.

RELATED: Crowds protest police violence in Vallejo after fatal shooting of Sean Monterrosa

Monday, ABC7 News I-TEAM reporter asked Governor Newsom, "Would you be willing to speak with Sean Monterrosa's family?"

The Governor did not answer that specifically but said, "I've asked my staff to take a much more detailed look at exactly why the Attorney General chose not to move forward in terms of a criminal investigation, though I'm very pleased and grateful to the Attorney General for moving forward as it relates to police practices in that jurisdiction, and so we'll have more to say hopefully very shortly."

CHP confirms protesters were arrested for unlawful assembly, failure to disperse, trespassing and conspiring to commit a crime against the governor.

"It's just comical because at the end of the day we were posing no threats," said Ashley Monterrosa.

The sisters say they were in jail more than 20 hours.

"I'm exhausted I'm trying to catch up on sleep, but I feel motivated more than anything to do even harder for this journey for justice for our brother Sean," said Ashley M

The sisters say protesters had to post \$2,000 bail in cash each to be release

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# EXHIBIT 5

to

DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRA-DISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF



Photo: Instagram/@justice4sean

News and Entertainment

## Sean Monterrosa's Sisters Arrested for Protesting Outside Calif. Governor's Home

by Virginia Isaad © October 9, 2020

Michelle and Ashley Monterrosa were arrested last week after protesting outside California Governor Gavin Newsom's home on the 4-month anniversary of the police shooting that led to the death of their 22-year-old brother Sean Monterrosa in Vallejo. The sisters were among 17 people who were arrested on charges of unlawful assembly, failure to disperse at an unlawful assembly, trespassing and conspiracy to commit a crime against the governor, according to the California Highway Patrol ABC News reports.

"Sean was not the only person who Vallejo police have killed, but we're here to say he will be the last one," said Michelle Monterrosa. "They try to silence us, but we'll all the people killed at the



justice4sean\_

17.8k followers

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2,072 likes

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NEW UPDATE !!!!

Ashley and Michelle Monterrosa will be released Oct 3. 2020 , and will provide more information about the other protesters who have been arrested as well. Thank you everyone who has been reaching out to the family out. Let's keep them in our prayers. Once we have news we will share with you all!

[view all 75 comments](#)[Add a comment...](#)



The sisters want speak to Gov. Newsom about their brother's death but have received no response from his office. After the arrest he was asked by ABC News if he'd be willing to speak with the family and he didn't answer the question directly.

"I've asked my staff to take a much more detailed look at exactly why the Attorney General chose not to move forward in terms of a criminal investigation, though I'm very pleased and grateful to the Attorney General for moving forward as it relates to police practices in that jurisdiction, and so we'll have more to say hopefully very shortly."

The sisters released a statement on Instagram in response saying that the gesture is "empty and meaningless" unless his office schedules a meeting with their family.



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## STATEMENT FROM MICHELLE MONTERROSA IN RESPONSE TO REMARKS ON THE SEAN MONTERROSA CASE

“

We are grateful to ABC 7 for asking Governor Newsom about our brother Sean's case and putting him on the record. His office will look into it. This is a step in the right direction, but an empty and meaningless gesture unless his office reaches out to us to schedule a meeting with our family.

We have made enormous sacrifices for Justice for Sean. On the four month anniversary of his death we want to convey

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justice4sean\_ @GATHER4JUSTICE

A statement from Michelle and Ashley Monterrosa in response to Governor's remarks on their brothers case.

[view all 63 comments](#)

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Solano County District Attorney Krishna Adams recused herself

the case citing a lack of trust in her office from the community, Mission Local reports. The Attorney General Xavier Becerra declined to investigate though his office is investigating the destruction of the windshield the officer shot through which was evidence. The pickup truck the officers were in was put back into service despite the ongoing investigation, Mission Local reports.

The sisters were in jail for 23 hours according to the @justice4sean\_ Instagram account and ABC News reports protesters had to post \$2,000 bail in cash each to be released.

"We were practicing our First Amendment right which is freedom of speech and we posed no threat," Michelle Monterrosa said ABC News reports.

On June 2, a Vallejo Police Officer identified as Jarrett Tonn allegedly fired five rounds from the backseat of the unmarked pickup through the windshield, killing Monterrosa after claiming he had a gun which was later revealed to be a hammer. Police had been called about looting outside a Walgreens and Vallejo Police Chief Shawny Williams' initial statements describe Monterrosa as kneeling with his hands up though he later said he appeared to crouch as if to shoot.

"I'm exhausted I'm trying to catch up on sleep, but I feel motivated more than anything to go even harder for this journey for justice for our brother Sean," said Ashley Monterrosa after her release, ABC News reports.

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# EXHIBIT 6<sub>to</sub>

DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRA-DISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF

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# Gov. Newsom 'open' to meeting with family of man shot, killed by Vallejo police

By Melanie Woodrow

Monday, November 9, 2020

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MORE VIDEOS

Governor Gavin Newsom says he is "open" to meeting with the sisters of Sean Monterroso, who was killed in June by a Vallejo police officer.

**VALLEJO, Calif. (KGO)** -- It's now been more than five months since a Vallejo police officer killed Sean Monterroso. Next month, Monterroso's sisters are expected to face charges connected to protesting outside Governor Gavin Newsom's home.

Time has not healed the loss of Sean Monterroso for his sisters, and they have been asking the Governor to meet with them.

"We deal with this pain every day," said Michelle Monterroso.

## **RELATED: Sisters of man shot, killed by Vallejo police arrested outside Gov. Newsom's home for protesting**

More than five months ago, a Vallejo police officer shot and killed Sean Monterrosa. The officer fired from the backseat of an unmarked vehicle hitting and killing Monterrosa, who was outside a Walgreens where there had been a looting.

Vallejo Police said he was crouched down in a half-kneeling position, moving his hands towards his waist area, revealing what appeared to be the butt of a handgun. It turned out to be a hammer.

Solano County District Attorney Krishna Abrams recused herself from the case. The Attorney General declined to investigate, though the AG's office is investigating the destruction of the windshield by police, which was evidence.

Monterrosa's sisters Michelle and Ashley have been asking Governor Gavin Newsom to meet with them.

## **VIDEO: Vallejo police release bodycam footage from fatal shooting of Sean Monterrosa**

Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 55 of 104  
Vallejo police released body camera video from the June 2 fatal shooting of Sean Monterrosa Wednesday. Officers shot and killed Monterrosa through the windshield of a patrol car following a night of looting.

Last month, on Oct. 2, the four-month anniversary of Sean's death, the California Highway Patrol arrested 17 protesters outside the Governor's home, including Michelle and Ashley.

"Shame on you Governor Newsom, shame on you," others could be heard yelling at the time.

Next month, the sisters will face charges for unlawful assembly, failure to disperse, trespassing and conspiring to commit a crime against the Governor.

"Justice delayed is justice denied, which is why we had no choice but to go to the Governor's home at this point," said Ashley Monterrosa.

During an October press conference, three days after the sisters' arrest, ABC7 News I-TEAM Reporter Melanie Woodrow asked Governor Newsom if he'd be willing to meet with the Monterrosa family.

He didn't answer the question directly but said in part:

"I've asked my staff to take a much more detailed look at exactly why the Attorney General chose not to move forward in terms of a criminal investigation, though I'm very pleased and grateful to the Attorney General for moving forward as it relates to police practices in that jurisdiction, and so we'll have more to say hopefully very shortly."

#### **RELATED: Family speaks out after Vallejo police mistake hammer for gun and shoot, kill 22-year-old**

I-TEAM reporter Melanie Woodrow had the opportunity to catch up with Governor Newsom again last week.

"Would you be willing to meet with that family? That's something they are desiring," Woodrow said to the Governor.

"I'm open to that, I'm open to that. I'm always open to that, but let me get the facts and the basis of what the investigation looks like. Nothing worse than a politician getting the middle

before he or she has the capacity of facts and interrupting the integrity of any investigation -- So let me maintain that first as a paramount, before any subsequent decisions are made," said Governor Newsom.

"We're never going to get Sean back. What can we do to work with you to prevent another family going through this loss?" said Michelle Monterrosa.

## **RELATED: Vallejo PD says Sean Monterrosa was at half-kneel when he was fatally shot in back of head by officer**

Governor Newsom signed AB 1506 into law, which will require the Attorney General, starting next year, to investigate fatal police shootings of unarmed individuals.

"We're very familiar with AB 1506 but that's next year, we've been asking for justice since June 2nd," Ashley Monterrosa said.

The sisters say with each passing month, they continue their fight.

"I hope that he wants to have a sit-down with us and I hope that we develop a bond and build a bridge between impacted families and elected officials so we push for change, cause enough is enough," said Michelle Monterrosa.

And while they won't take their message to the governor's doorstep again, they don't plan to remain silent either.

"Nothing will bring Sean back but the work we're doing, I know he would be proud," said Michelle Monterrosa.

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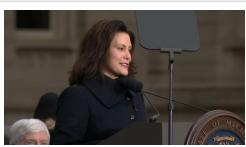
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# EXHIBIT 7<sup>to</sup>

DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ORDER GRANTING INTRA-DISTRICT TRANSFER OF VENUE TO FRESNO DIVISION OF EASTERN DISTRICT AND DECLARATION OF MEERA BHATT IN SUPPORT THEREOF



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# Family of man killed by Vallejo Police says Gov. Newsom willing to look into incident

Sean Monterrosa was shot and killed by Vallejo Police on June 2 during a protest of the police shooting of George Floyd.

Author: Chris Thomas

Published: 11:28 PM PST November 13, 2020

Updated: 11:46 PM PST November 13, 2020



VALLEJO, Calif. — They were arrested outside Gov. Gavin Newsom's mansion protesting the police shooting of their brother Sean Monterrosa in Vallejo. Now, Michelle and Ashley Monterrosa say Newsom wants to talk.

"[Newsom] says that his office would look into the murder of our brother but also review why we were arrested," Michelle told ABC10.

Vallejo police announce new ...

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Sean Monterrosa was shot and killed by Vallejo Police on June 2 during a protest of the police shooting of George Floyd. Vallejo officers said Sean was crouching down, moving his hands towards his waist., and revealed what appeared to be the butt of a handgun. It turned out to be a hammer.

Since then, the City of Vallejo announced a criminal investigation into the destruction of evidence in the case. The city manager said the windshield from the police vehicle involved in the shooting was destroyed.

On Friday, Vallejo Police announced the department is partnering with the Solano County District Attorney's Office to launch the "Solano County Major Crimes Task Force", the first in California, with a new protocol that requires all deadly shootings by police officers be investigated by the task force.

"And it's just one of those things that they are feeling the pressure that not only our family is applying but the entire Bay Area as well," Ashley said.

"I think it is a very positive step. I am not convinced yet without seeing some results," family attorney John Burris said. "It remains to be seen. I hope that's true."

Continue the conversation [with Chris on Facebook](#).

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LETTER FROM CALIFORNIA NOVEMBER 23, 2020 ISSUE

# HOW A DEADLY POLICE FORCE RULED A CITY

*After years of impunity, the police in Vallejo, California, took over the city's politics and threatened its people.*

**By Shane Bauer**

November 16, 2020





0:00 / 48:38

**Audio:** Listen to this article. To hear more, download Audm for iPhone or Android.

Three police officers in an unmarked pickup truck pulled into the parking lot of a Walgreens in Vallejo, California, responding to a call of looting in progress. It was just after midnight on June 2nd, and a group of people who had gathered around a smashed drive-through window quickly fled in two cars. Sean Monterrosa, a twenty-two-year-old from San Francisco, was left behind. As the police truck closed in on Monterrosa, Jarrett Tonn, a detective who had been with the Vallejo police force for six years, was in the back seat, aiming a rifle. No one told Monterrosa to freeze or to put his hands up, but he fell to his knees anyway. As the truck came to a stop, Tonn fired five rounds at Monterrosa through the windshield.

A week earlier, a police officer in Minneapolis had killed [George Floyd](#). Now the Bay Area was in the throes of an anti-police uprising. People marched, drove in caravans, and painted tributes to Floyd on walls and boarded-up windows. Police in Oakland, about thirty miles from Vallejo, launched tear gas at protesters, who gathered in intersections, blocked traffic on the freeway, looted stores, and lit fires in two banks. A man linked to the far-right Boogaloo movement was charged with killing a security officer outside a federal building. People ransacked malls in San Francisco, San Leandro, and the wealthy suburb of Walnut Creek, stealing from Best Buys, Home Depots, video-game stores, small businesses, and marijuana dispensaries. More than seventy cars were taken from a dealership; a gun shop was robbed of twenty-nine firearms. A curfew was instituted in Vallejo, but many people defied it. When Monterrosa got to the Walgreens, the store had already been looted.

Forty-seven minutes before Monterrosa was killed, he sent a text message to his two sisters, asking them to sign a petition calling for justice for Floyd. Monterrosa, whose parents emigrated from Argentina, had been critical of the police since, at the age of thirteen, he received citations for selling hot dogs outside night clubs. As teen-agers, Monterrosa and his sisters went to protests for people killed by cops in San Francisco: Jessica Williams, Alex Nieto, Mario Woods. In 2017, Monterrosa was

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arrested on weapons charges, for allegedly shooting into a building; he returned from jail covered in bruises. (The case was dismissed after his death.) He told his family that the police had smacked his head against the concrete in his cell.

When Monterrosa was young, the neighborhood where he grew up, Bernal Heights, was largely Black and brown, but as tech companies moved in San Francisco became richer and whiter. Now, Monterrosa's mother says, their family are the only Latinos on the block. Sean encouraged her to know her rights as a documented immigrant. His mother generally thought that the police were a force for good, but Sean disagreed, saying that they were out to get Black and brown people.

Monterrosa loved San Francisco, but he couldn't afford to live there. Since the age of eighteen, he'd moved back and forth between the suburbs and his parents' place, working a variety of jobs. He got a carpentry position two months before the Bay Area issued shelter-in-place orders in response to the coronavirus, then he was laid off. He moved in with a new girlfriend. A couple of days later, he came to the Walgreens.

After Tonn shot Monterrosa, he got out of the truck and turned his body camera on.

"What did he point at us?" Tonn asked.

*When Monterrosa got to the Walgreens, the store had already been looted.* Photograph by Carolyn Drake / Magnum for The New Yorker

“I don’t know, man,” an officer said.

“He pointed a gun at us!” Tonn shouted.

“Do not move!” the officers yelled, training their weapons on Monterrosa, who lay limp on the pavement in a pool of blood. Two of them reached down and rolled him over, revealing a hammer sticking out of his pocket.

“Oh, fuck,” Tonn exclaimed.

“You’re good, man,” an officer said.

The officers cuffed Monterrosa.

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 73 of 104](#) “Fucking stupid!” Tonn shouted. He kicked the truck. “This is not what I fucking needed tonight,” he told a captain. “I thought that fucking axe was a gun.”

“Calm down,” the captain said. “Take some deep breaths.”

Tonn inhaled deep and slow.

“You’re going to be all right,” the captain said. “We’ve been through this before.”

**S**ince the killing of Michael Brown in [Ferguson, Missouri](#), in 2014, protest movements have pushed big cities to reform their policies on when a police officer can use force. According to the database Mapping Police Violence, homicides by police in America’s thirty largest cities have declined by about thirty per cent since the year before the Ferguson protests. Yet they have not decreased nationwide. In rural and suburban areas, police killings have been on the rise for years, and roughly three-quarters of police homicides now occur in those areas. The killing of Monterrosa received some national media attention, because of the moment in which it occurred. But in Vallejo it was one more in an ongoing litany of police killings.

Vallejo, a postindustrial city of a hundred and twenty-two thousand people, is best known for its Six Flags amusement park and for its musicians: E-40, Mac Dre, H.E.R. Its per-capita income is less than half that of San Francisco, and its population is more diverse, split among whites, African-Americans, Latinos, and Asians. Its police force, however, consists largely of white men who live elsewhere. Since 2010, members of the Vallejo Police Department have killed nineteen people—a higher rate than that of any of America’s hundred largest police forces except St. Louis’s. According to data collected by the anti-police-brutality group Campaign Zero, the V.P.D. uses more force per arrest than any other department in California does. Vallejo cops have shot at people running away, fired dozens of rounds at unarmed men, used guns in off-duty arguments, and beaten apparently mentally ill people. The city’s police records show that officers who shoot unarmed men aren’t punished—in fact, some of the force’s most lethal cops have been promoted.

The failure to hold police officers accountable has been an issue in Vallejo for as long as anyone can remember. According to confidential city documents, twenty-five years ago one officer shot another while drinking in a bar, and wasn’t fired. A cop with a drug problem kept his job even after he was caught stealing from evidence lockers and was arrested for prescription fraud. Twenty years ago, a

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 74 of 104](#) lieutenant told a new officer named Joseph Iacono that, when a suspect runs away, the officer should use enough force to put the man in the emergency room. To see if Iacono could fight, he was placed in a holding cell with an uncooperative suspect. Iacono is now the department's Lead Force Options Instructor and, according to the documents, likes to say, "It can't be awful if it's lawful."

In the past ten years, Vallejo has paid nearly sixteen million dollars in legal settlements involving the police, many thousands of dollars more per officer than America's largest police departments. None of that money has come from officers; it is paid by Vallejo and its insurers. Police violence has cost the city so much money that, in 2018, the statewide insurance pool that helped pay its legal fees took the unprecedented step of raising Vallejo's annual deductible, from five hundred thousand dollars to \$2.5 million, prompting the city to find another insurer. Vallejo is currently facing at least twenty-four use-of-force cases, which it estimates could cost some fifty million dollars.

"Vallejo police have been acting as if they own Vallejo for a long time," Stephanie Gomes, a former city-council member, told me. In 1969, two weeks after the Zodiac killer shot a couple in Vallejo, officers staged the first-ever strike by law enforcement in California. They had been receiving "top salary," one newspaper wrote, but, after refusing to work for five days, they won a seven-per-cent wage increase.

At the time, Vallejo was a relatively prosperous city. A naval shipyard provided thousands of jobs, and the median income was on a par with San Francisco's. But, in the mid-nineties, the shipyard closed, and Vallejo lost its main source of revenue. In the following years, the city became less white, and poverty increased. Fearing cuts, the police union, the Vallejo Police Officers' Association, identified city-council candidates who were friendly to its interests. The V.P.O.A. contributed money to their campaigns and launched attacks against those who opposed them.

The V.P.O.A.'s strategy, Gomes told me, was to try to "elect a majority of people who will vote for lucrative contracts and pretty much whatever they want." When Gomes ran for city council in 2005, she met with representatives of Vallejo's unions, including police and firefighters. She said that one of them asked her, "If you win, will you stay bought?" The V.P.O.A.'s approach seemed successful. Between 2000 and 2007, the police received a fifty-five-per-cent wage increase. Vallejo had one of the lowest per-capita incomes in the Bay Area but the best-paid police force.

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After the housing bubble burst in the mid-two-thousands, the city's finances deteriorated further. In 2007, it had an eight-million-dollar deficit, which was projected to double within a year. In the hope of avoiding collapse, Vallejo hired a new city manager, Joe Tanner. To Tanner, the source of Vallejo's financial problems was clear: three-quarters of its general fund was going to police and firefighters. Gomes led an effort to reduce their pay, but the unions defeated the city in arbitration, forcing it to limit street repairs and to eliminate funding for the senior center and the library. "Every citizen of Vallejo works to pay the salaries of the police and fire unions," a resident wrote to the local paper. "All we talk about is cutting services to feed the greed and avarice of the public safety unions."

Tanner and Gomes saw no choice for the city but to declare bankruptcy and renegotiate the unions' contracts. The problem, Tanner told me, was that "the cops owned the council." The majority of city-council members were endorsed by the public-safety unions, and they refused to vote in favor of bankruptcy. One day, Tanner said, a Vallejo cop approached him in a restaurant in a nearby town and told him, "You're gonna get yours." An anonymous caller threatened to burn his house down. His Jeep was keyed several times and its tires were slashed. Eventually, Tanner threatened to declare a state of emergency and lay off the entire police and fire departments. The council gave in, and, in May, 2008, Vallejo became the largest city in California ever to declare bankruptcy.

By 2011, owing to retirements and a hiring freeze, the police force had shrunk to ninety officers, around sixty per cent of its pre-bankruptcy size, and the police budget had been cut by about a third. The union had warned that the cuts would lead to an increase in crime—a billboard in the city read "PUBLIC SAFETY IS DISAPPEARING"—but, in the two years following Vallejo's bankruptcy, violent crime decreased by a quarter.

Police in other parts of the country worried that Vallejo's approach could spread. In 2008, the magazine *American Police Beat* published an article, titled "TIME TO CIRCLE THE WAGONS," which warned police departments that, as the country fell into a recession, "highly compensated law enforcement agencies" should be worried. Police unions should be prepared to "identify the vocal critics and make them feel your pain. Somehow this seems to be where the unions get queasy and weak-kneed." The article went on, "It is often difficult to convince yourself or the members to picket some councilman's business, put their home telephone numbers up on billboards, and in general make their lives a living hell. . . . Get dirty and fight to win."

s Vallejo was arguing for bankruptcy in court, Gomes told me, police cars and motorcycles drove by her house multiple times a day, and officers revved their engines and looked into her front window. One officer, Steve Darden, wrote a rap song about Gomes and posted it online. It included these lines:

I'm plain sick and tired of all the trash you're talkin'  
When the truth comes out we gonna send you walkin' . . .  
You're the worst kind causing all these problems  
When it starts heating up you run and hide in your closet . . .  
Be careful what you wish for it could come true  
As we all watch the plan backfire on you

Darden has produced a number of albums about being a cop in Vallejo. A common theme is the unfair treatment of police. Yet Darden has a long history of disturbing behavior. In 2010, he told a defendant in court that if he didn't stop glaring at him he would knock him out and make him "leave on a gurney." In 2011, Darden responded to a 911 call from a man who said he'd been beaten and robbed by his housemates. The man identified himself as a U.S. soldier and scolded Darden for taking forty-five minutes to arrive. Darden hit him in the face and took him to the ground, shouting, "You are talking to a United States marine!" According to an investigation by Open Vallejo, a nonprofit news Web site, Darden is one of a group of officers who have bent the tips of their badges to commemorate fatal shootings—an accusation that Darden has denied. He has been the primary shooter in two killings, and a recent photograph appears to show two bent tips on his badge. This year, he was promoted to lieutenant.

When Gomes arrived home one day, her neighbor told her, "Something really dirty just happened." The alarm on Gomes's house had been tripped, and two police officers had responded. The neighbor had seen them pry open a window and spend at least twenty minutes inside. Hours later, on the blog of a local newspaper, anonymous accounts posted about her personal items, including a satirical collage made by a friend that depicted Gomes as the mastermind behind the city's bankruptcy and police cuts. Gomes complained to the city, and the police chief ordered the cops to stop driving by her house.

If the police were willing to harass Gomes so persistently, she wondered what they did to people who had no power. After she was reelected, in 2009, she proposed forming a citizens' advisory committee

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 77 of 104](#) to review complaints against the police. When she presented her proposal at City Hall, cops filled the chamber and booed. One said that Gomes was “scapegoating” the police. Another said that the force was being “subjected to hate and tyranny.”



Although the committee was ultimately approved by the city council, its duties were watered down to producing a report of nonbinding recommendations. Its seven voting members were white, and three of them were former police officers.

Shortly after Sean Monterrosa was killed, the V.P.O.A. issued a statement saying that, before he was shot, he “abruptly pivoted back around toward the officers, crouched into a tactical shooting position, and grabbed an object in his waistband that appeared to be the butt of a handgun.” The statement, which neglected to say that Monterrosa had not been armed, asserted that “the officer used deadly force as a last resort because he had no other reasonable option to prevent getting shot.” Each week, people marched from City Hall to protest Monterrosa’s killing. The V.P.O.A., on its Facebook page, condemned the “screaming angry mob mentality and profound anger directed at the police.”

Nationwide, more than eighty per cent of police officers are represented by unions, and a 2006 report by the Bureau of Justice Statistics found that unionized police departments received complaints about their members’ use of force at a rate thirty-six per cent higher than that of non-unionized departments. In 2019, a University of Chicago study of sheriff’s deputies in Florida found that, when the deputies unionized, their violent misconduct increased by forty per cent.

Strong police unions also make it harder for cops to be punished. Officers can appeal sanctions through multiple reviews, and most departments allow appeals to be heard by an arbiter selected in part by the police union. According to a 2017 examination by the *Washington Post*, among departments that coöperated with its survey, roughly a quarter of cops fired for misconduct since 2006 were reinstated after an appeal. (In San Antonio, the share was seventy per cent.)

Five months before Monterrosa was killed, the V.P.O.A. had replaced its president, Detective Mat Mustard, who had run the union for ten years. Mustard was notorious in Vallejo for the investigation he led into the kidnapping of a woman named Denise Huskins, in 2015. Someone broke into the house where she and her boyfriend were sleeping, blindfolded and drugged them, and put her in the trunk of a car. When the boyfriend reported the crime, Mustard suspected that he had killed Huskins and invented the kidnapping story. At the police station, the boyfriend said, officers dressed him in jail clothes, then Mustard and others interrogated him for eighteen hours, calling him a murderer.

Huskins, who was being held a hundred and sixty miles away, was raped repeatedly. After she was released, the Vallejo police publicly accused her and her boyfriend of faking the kidnapping, comparing the situation to the movie “Gone Girl.” The police threatened to press charges against the couple, and after the rapist e-mailed the San Francisco *Chronicle*, confessing to the kidnapping, the police accused Huskins and her boyfriend of writing the e-mail. Soon, the rapist was arrested in South Lake Tahoe, after trying to repeat the crime. Even then, the Vallejo police insisted that Huskins and her boyfriend were lying. The couple sued Mustard and the city, eventually winning a \$2.5-million settlement. In a show of defiance, the police department named Mustard officer of the year.

The new president of the V.P.O.A., Michael Nichelini, had been on the police force in Oakland before he joined the Vallejo P.D., in 2006. In 2003, he participated in the suppression of an antiwar demonstration, in which police shot wooden dowels and rubber bullets at people who were blocking traffic in the city’s industrial port. Nichelini, along with other traffic officers, used his motorcycle to push back the protesters, striking at least one person.

According to an article in the Berkeley *Daily Planet*, youth of color in Oakland called Nichelini “Mussolini,” because of his reputation for racism. At least four civil-rights complaints were filed against him to the Oakland Citizens’ Police Review Board. In 2004, the board found that he had used excessive force after stopping a seventeen-year-old boy driving a truck on a suspended license. The boy claimed that Nichelini asked, “Are you a nigga or *ese*?,” and the board found that he used his knees to hit the back of the teen-ager’s head against the pavement.

Nichelini’s father, Robert, was Vallejo’s chief of police when his son joined the force. Robert Nichelini, who had also come from the Oakland Police Department, assured the Vallejo *Times-Herald* that his son had a “perfect record.” Vallejo is “such a family oriented city,” he told the paper. “What is wrong with a son following a father’s footsteps in the Vallejo Police Department?”

In 2019, eighteen-year-old Carlos Yescas and his twelve-year-old brother drove to a food market in a car with no license plate. According to a complaint that Yescas filed with the city, Michael Nichelini, who was in plain clothes, approached them and told Yescas, “You know you fucked up, right?” Yescas said that Nichelini didn’t identify himself as a police officer but insisted on seeing Yescas’s I.D. Nichelini then told him that “he was going to take his car and keep it.” He reached into the car, grabbed the keys, and cuffed Yescas. As Yescas’s brother filmed, Nichelini pulled Yescas from the

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 81 of 104](#), vehicle, even though he was wearing a seat belt. Yescas called Nichelini a “white piece of shit,” and Nichelini threw him to the ground and knelt on his back as Yescas repeatedly said, “I can’t breathe.” Yescas’s car was confiscated, and the police department told his family that it couldn’t be located. Then the department auctioned it off.

Melissa Nold, an attorney who specializes in police use-of-force cases, filed the complaint. Two months later, she and Nichelini were at a city-council meeting in which the police were requesting a change to their contract. They wanted a clause deleted that allowed the city to order an officer to be drug-tested after firing his weapon. The clause had not been enforced for years, but Vallejo’s first Black police chief, Shawny Williams, was about to take office, and there was a presumption that he would be a reformer. Nichelini stood at the back of the room and filmed Nold. The clause was deleted and, two months later, Nichelini became the president of the V.P.O.A.

A few days after Monterrosa was killed, police replaced the windshield that Tonn had fired through. For possible involvement in the destruction of evidence, Nichelini was suspended by Williams. He maintains that he had nothing to do with the windshield replacement.

One spate of killings by police in Vallejo can be traced back to 2011, when an officer named Jim Capoot was shot and killed while chasing a suspected bank robber. He was the first cop to be killed in Vallejo in eleven years. The following year, police killed six people, accounting for nearly a third of the homicides in the city. Half the killings were committed by an officer named Sean Kenney.

Early on the morning of May 28, 2012, a forty-one-year-old Black man named Anton Barrett, Sr., whose nineteen-year-old son was also in the car, pulled out of a parking lot with his headlights off and ran a red light. He was drunk, and when cops tried to stop him he drove off. Then his car got a flat tire, and he and his son jumped out and ran in different directions through an apartment complex. Kenney began chasing Barrett, and, though he was carrying pepper spray and a Taser, he chose to draw his gun. Seconds later, he saw Barrett running toward him and fired five times. Kenney claimed that Barrett had started to pull a black object out of his pocket—it turned out to be a wallet. As Barrett lay on the ground dying, another officer Tased him. Barrett’s family sued, and the city eventually paid a settlement of two hundred and thirty-five thousand dollars.

Three months later, Kenney shot Mario Romero, a twenty-three-year-old Black man, who was returning home after a night out with his sister’s boyfriend, Joseph Johnson. When the men pulled up

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 82 of 104](#) to the house, Johnson called Romero's sister and asked her to let him in. Kenney and Dustin Joseph, who were responding to a call about a burglary in the neighborhood, shone a spotlight on the men.

Kenney said that Romero got out of the car and reached for his waistband. Then, he said, when the officers yelled for the men to put their hands up Romero crouched "into a firing position," prompting Kenney and his partner to begin shooting. Johnson, however, said that the cops began firing at him and Romero while they sat in the car.

Romero's sisters were watching from their living-room window, and said that they saw Kenney jump onto the hood of the car and unload his clip through the windshield into Romero, who was sitting in the driver's seat. Johnson corroborated this account. Kenney admitted that he'd stood on the hood but insisted that he hadn't fired from there. Romero was shot thirty times. After his body was removed, Kenney searched the car. He said that he found an airsoft gun on the floor, wedged between the driver's seat and the center console.

Seven weeks later, an autistic man named Jeremiah Moore and his boyfriend were smashing car windows and trying to set their home on fire during a psychotic episode. When the police arrived, Moore grabbed an antique rifle and Kenney shot and killed him. Moore's family sued, and won a two-hundred-and-fifty-thousand-dollar settlement.

The Romero family, along with other community members, attended sessions of the newly created citizens' advisory committee, which met for several hours every couple of weeks. But the issues the committee debated were modest: a small reduction in wages, requiring cops to use body cameras, creating a position for a civilian auditor who would respond to complaints of police misconduct. The former officers who sat on the committee regularly objected to these proposals, raising the spectre of lawsuits by the V.P.O.A. should the city try to interfere with police work.

In the end, the committee's recommendations included installing more surveillance cameras, establishing a daytime curfew for youths, increasing enforcement of parking violations, and using money from a new public-services tax to hire more cops.

Three years after the death of Romero, his family won a two-million-dollar settlement. Later that year, the police department completed its review of the case and declared that the shooting was

justified. Officers told Open Vallejo that Kenney was initiated into the badge-bending group. In 2011, he was made a detective. One of his new duties was to investigate officer-involved shootings.

**R**eformers who have succeeded in getting rogue cops censured or fired often come up against a frustrating reality: because there are no national and few statewide indexes that track police terminations and disciplinary infractions, tainted officers often find new jobs in different jurisdictions. A recent study published in the *Yale Law Journal* found that about three per cent of officers serving in Florida had been fired from other state agencies. These cops, who typically moved to smaller forces that were desperate for experienced officers, were more likely than others to be charged with misconduct in their new departments. Sometimes a cop will resign before he is fired, thus avoiding any consequences. Before Timothy Loehmann, the officer who killed twelve-year-old Tamir Rice, in Cleveland, joined the city's police force, he had resigned from his previous job, in Independence, Ohio, where supervisors noted his insubordination, lying, and emotional immaturity.

Officers can also transfer in order to escape reforms. In the past year, large numbers of cops in Seattle, Buffalo, Atlanta, and San Francisco have left. After four cops were charged with killing George Floyd, about two hundred officers in Minneapolis filed to quit the department, citing "post-traumatic stress." Law Enforcement Move, a company founded in the wake of the recent protests, says that it helps officers "escape anti-police cities, and live in America, again!" Since June, its founder told me, the company has been contacted by more than a thousand cops, or their spouses, who are interested in relocating to more "police-friendly" communities.

Some of Vallejo's most notorious officers transferred from Oakland, where a lawsuit brought on behalf of a hundred and nineteen plaintiffs claimed that police had routinely kidnapped, beaten, and planted evidence on people. In 2014, a court-appointed overseer announced that he would be tightening oversight on uses of force, and punishing officers who didn't report misconduct by their colleagues. Within four months, six officers had left for Vallejo. Three of them were eventually involved in lethal shootings. All six were sued for excessive use of force.

Two of the former Oakland officers were the twin brothers Ryan and David McLaughlin, who often searched men of color in Vallejo on the ground that they smelled marijuana, even after it had been legalized. The brothers justified these searches as "compliance checks," meant to make sure that people

[Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 84 of 104](#) weren't carrying more than the legal limit. "That's maybe how they roll in certain other nations," a judge later said in court. "But that is not probable cause."

In 2018, David McLaughlin, while off duty, got into a heated confrontation with a man celebrating his son's birthday at a pizzeria in Walnut Creek. He pointed his service gun at the man, then tackled him and punched and elbowed him until his face was bloody. (McLaughlin maintains that he acted within professional boundaries.) Five months later, McLaughlin pulled over a man on a motorcycle for speeding, then drew his gun on him. The man's cousin, an African-American marine veteran named Adrian Burrell, filmed the encounter from his front porch. McLaughlin ordered Burrell to retreat. Burrell refused, resulting in a struggle that, he alleges, gave him a concussion. McLaughlin faces lawsuits in both cases.

Jarrett Tonn, Monterrosa's shooter, joined the Vallejo force the same year as the Oakland cops. Tonn had been an officer in Galt, California, where he worked with his cousin, Kevin Tonn. One day in 2013, Kevin confronted a man who he thought, incorrectly, was a suspect in a robbery. The man pulled out a gun and shot Kevin, then shot himself. Jarrett rushed to the scene, but his cousin was dying.

*A memorial for Sean Monterrosa in San Francisco, where he was from. Photograph by Carolyn Drake / Magnum for The New Yorker*

Transferring to Vallejo might have seemed like an unlikely career move. Crime was high, the city was just a few years out of bankruptcy, and the school system had recently emerged from state receivership. But Tonn wasn't going to live there. Even after the bankruptcy, Vallejo officers were some of the highest paid in California. Tonn's base pay during his first full year in Vallejo was a hundred thousand dollars—thirty-six thousand dollars more than he made in Galt. This didn't account for overtime and benefits. In 2018, he made twenty-seven thousand dollars in overtime and thirty-one thousand dollars in "other pay," and received twenty-two thousand dollars' worth of benefits. In addition, his pension was funded with fifty-eight thousand dollars.

The year after Tonn started working in Vallejo, he chased an unarmed man who was driving a stolen car. The man crashed into someone's front yard, then reversed into Tonn's car. Tonn doesn't remember

The officer who wrote the police review of the shooting was Kent Tribble, who once, when responding to a domestic dispute, went to the house of a Black man by mistake, Tased him through his bedroom window after the man shouted profanities at him, and later charged him with resisting arrest. On another occasion, when he was off duty, he pulled a gun on two men in Bend, Oregon, during a drunken confrontation after leaving a bar. (Tribble did not respond to a request for comment.) A couple of years later, Tribble was promoted to lieutenant. When he reviewed Tonn's shooting, he wrote that Tonn had acted in accordance with his training.

In 2017, Tonn was paired with Sean Kenney, the officer who killed three people in 2012. One day, Tonn and Kenney were pursuing Kevin DeCarlo, a suspect in a pawnshop robbery that had ended in a homicide. (He was never charged in connection with the crime.) When DeCarlo stopped at a stop sign, Kenney rammed his car. DeCarlo rammed Kenney back, then got stuck in a ditch. Tonn fired at least eight rounds with a rifle at DeCarlo; other officers, including Kenney, fired at him as well. A witness told police that the scene resembled an execution. DeCarlo suffered four broken ribs, a collapsed lung, and the loss of two fingers. Tonn told investigators that he thought DeCarlo was reaching for a firearm, but DeCarlo had no weapon. (Tonn did not respond to a request for comment.)

According to the Pew Research Center, only a quarter of cops ever fire their weapon on duty, but this was Kenney's fifth shooting in five years. A year and a half later, he retired. He started a consulting firm called Line Driven Strategies, which conducts training courses for police departments on the use of force and on how to investigate shootings by the police. Kenney declined an interview, saying that there was "too much negativity and hate in this climate."

Five weeks after shooting DeCarlo with Kenney, Tonn chased a carjacking suspect down an alley, then fired at him from half a block away. Tonn claimed that the man was carrying a gun, but no weapon was found. The policeman who wrote the internal report of the shooting, Jared Jaksch, was one of the officers who had shot at DeCarlo. Jaksch is also on the board of the V.P.O.A. He wrote that Tonn had done nothing wrong, but recommended that adjustments be made to training "to ensure officers know that they must react in self defense without consideration for potential future civil unrest."

I wanted to learn how Vallejo police officers viewed the perception that they act with impunity. Though no one on the police force agreed to talk to me on the record, I did find a body-camera recording in which an officer revealed his thoughts. On July 7, 2016, Josh Coleman and a partner were on patrol in Vallejo when they saw some twenty Black people standing in an intersection. For a documentary about Bay Area hip-hop, a Viceland reporter was interviewing Nef the Pharaoh, a protégé of E-40. Coleman assumed that they were shooting a rap video. He later told a court that, since he had seen guns used in rap videos, he thought this was sufficient cause to detain and search as many of the men as he could.

As an officer began to arrest a man with a handgun, Coleman ordered a group of onlookers to move across the street. (A judge later dismissed the charges, saying that there was no probable cause for a search.) A twenty-one-year-old woman, whom I'll call Aliya, ignored him, so Coleman threw her against his car and arrested her.

Coleman spotted a rapper known as Cousin Fik, with whom he went to high school. Coleman believes that the main reason for street violence is "the music, plain and simple." He admonished Cousin Fik for delivering a detrimental message. "Until men like you and people like I start delivering the same exact message, we are not going to be able to do anything," Coleman said. "People are still going to get killed."

At the police station, Coleman put Aliya in an interrogation room and asked her why she had refused to cross the street.

"Because that's my baby daddy, and I don't want nothing to happen to him," she said. "All these police officers want to shoot a Black person. If you're going to shoot him, I'm going to be right with him."

"In the political climate today, do you think any police officer really wants to shoot a Black person?" Coleman asked.

"So why do they?"

"We're protecting our lives."

"O.K., you're cool today, but another officer would have had his gun out and automatically just shot him."

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“No, that doesn’t happen. Seriously, think about it logically. You think a police officer is willing to risk his one-hundred-thousand-a-year job, all of his medical benefits, because he wants to shoot somebody who’s Black and be on the news, and be accused of being a murderer, and now he has to live the rest of his life being a UPS driver because he can’t be a cop anymore?”

“I’m not saying you do, but you never know what these—”

“You’re not processing,” Coleman said.

“I’m just telling you I’m scared for him.”

“You’re processing this emotion out of an unrealistic fear.”

Coleman once shot a man at a bar when he mistook a can of Steel Reserve 211 beer tucked into the man’s waistband for a gun. On another occasion, he wrote in a police report that he had stopped a Black man when the man turned to look at his patrol car after Coleman drove past. “In some circumstances,” Coleman wrote, he found such behavior “to be an indicator of wrong doing.” “You’ve got to stop swallowing dope,” Coleman said he shouted after the man appeared to put something in his mouth. “It’s going to give you a tummy ache.” The man yelled back at him. Coleman then pulled across several lanes of traffic, got out of the patrol car, and tackled the man. Coleman noted in the report that, although the man was not carrying drugs, he had cash denominations “consistent with street level sales.” The man was carrying forty-eight dollars.

“I understand what you think,” Coleman said to Aliya. “I went to college. I remember being in my twenties and thinking that all these things are examples of police brutality, ’cause I didn’t understand what it’s like to be a police officer.”

“The fact that you just pull your guns out scares people,” she said.

“I wish we didn’t have to have firearms,” Coleman responded. He said that he wished there were an iPhone app that enabled him to make people freeze without endangering their lives.

“Ain’t that what y’all have the Tasers for?” Aliya asked.

“Tasers don’t work.”



Months earlier, Coleman had been dispatched to a post office to deal with a homeless man who had threatened to harm himself. Coleman wrote in a police report that, as he was approaching, he wondered if the man might have a “more sinister purpose,” such as launching a terrorist attack. In order to disrupt the man’s ability to “secure the location” or take hostages, Coleman rushed in and Tased him.

“The crux of the issue is that there is a lack of respect for law now in this young culture,” Coleman told Aliya. “The young culture believes that they can do whatever they want. . . . Martin Luther King wasn’t smoking weed. Martin Luther King wasn’t hanging out at a rap-video shoot with a bunch of people with guns talking about how the police are killing Black people. . . . What happened to Malcolm X? What happened to Marcus Garvey? What happened to real men who stood for real values? What happened to Oprah Winfrey? I would say Bill Cosby, but he messed that up.”

Soon, Coleman said, “Do you want to go home today?”

“Yeah.”

“I want you to apologize to me,” he said.

“Sorry,” Aliya said, sounding surprised.

“That is a bad apology. I want you to really apologize.”

“Sorry.”

“That’s the best you have? One word?”

“Sorry for being in your scene.”

Willie McCoy, a twenty-year-old rapper, was the last person to be killed by Vallejo police before Sean Monterrosa. In February, 2019, the police got a call from a Taco Bell, saying that a man was unconscious in his car. A group of officers arrived and saw McCoy asleep in the driver’s seat. One officer noticed that he had a gun in his lap, with the magazine removed. Another

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officer said that he was going to open the door and grab the gun. "If he reaches for it, you know what to do," he said. But the door was locked. The police had been standing around the car for more than four minutes when McCoy scratched his shoulder and leaned forward, seeming dazed. Suddenly, six cops fired fifty-five bullets at him.

One of the officers, Ryan McMahon, had stopped a Black man a year earlier for bicycling without lights. McMahon beat the man, Ronell Foster, with his flashlight until Foster wrested it from him and attempted to run. McMahon shot him in the head and the back from several feet away, killing him. The V.P.O.A. posted on its Facebook page that killings like this could be avoided "if those that come into contact with the police follow their commands." McMahon was cleared of wrongdoing by prosecutors, but Foster's family sued the city and won a \$5.7-million settlement, the largest that Vallejo has paid.

Since June, activists in Vallejo have been calling for the city to "fire the fatal fourteen," referring to officers on the force who have been involved in multiple shootings. In September, Williams, the department chief, broke with precedent and fired McMahon. Williams didn't claim that the shooting of McCoy was unjustified; instead, he said that McMahon had violated "safety norms" by shooting while his partner was standing near the line of fire.

In a closed city-council meeting in October, Williams said that he is also pursuing disciplinary action against officers who recently kicked in the door of a house and Tased a man who they wrongly believed was suspected of domestic violence. In addition, Williams vowed to punish an officer who held his foot on a man's head for at least a minute and a half while the man was handcuffed. Recent confidential city documents suggest that Williams is unpopular within the department. Officers have accused him of getting the job because he's Black. "He thinks he is Black Jesus," one said. Nichelini, the head of the V.P.O.A., has said that Williams "can't speak English," and that he won't follow the chief's orders if he doesn't like them, according to the documents. "Chiefs come and go," Nick Filloy, a public defender for fourteen years who works in Vallejo, told me. "It's the sergeants and the shift lieutenants and the captains that really control the tenor of the department and that resist change."

If Vallejo is an example of what can happen in a small city with a strong police union, it may also prove to be a test case of a city attempting to break the union's power. In another closed city-council meeting in October, the mayor, Bob Sampayan, a former police officer, said, "I'm just absolutely done

Case 2:20-cv-01563-TLN-DB Document 24 Filed 11/30/20 Page 92 of 104 with the V.P.O.A. running the show. We need to show V.P.O.A. that they are not in control.” The city has created a position for a civilian auditor to review police investigations and complaints against officers. The council, including its union-endorsed members, unanimously approved a proposal by the mayor, the chief, and the city manager to declare a public-safety emergency. This will allow them to implement police reforms without consulting the V.P.O.A., and to create non-union positions for assistant chiefs, who they hope will help rein in the police department. In response, the union said that the city was trying to “create a dictatorship . . . to circumvent state and local laws and regulations.”

The fight to break the union could go on for years, or it could fade away. In the meantime, the Monterrosa and McCoy families have sued the city. If these cases end in large payouts, insurance providers could refuse to continue the city’s coverage, which would force it to disband its police department, as has happened in a few other small cities, including Lincoln Heights, Ohio, and Maywood, California.

Monterrosa’s sisters and local activists recently put up a billboard facing the police station, where Jarrett Tonn is back at work. It shows Monterrosa, a slight smile on his lips. “We wanted to remind the police that Sean can’t be forgotten,” Ashley, one of Monterrosa’s sisters, told me. “We want to make sure Jarrett Tonn sees the person he killed every single day.” ♦

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- The quest to transform the United States cannot be limited to challenging its brutal police.

*Published in the print edition of the November 23, 2020, issue, with the headline “An Unstoppable Force.”*

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*Shane Bauer, the author of “American Prison,” is at work on a book about Americans who fought in Syria.*

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# EXHIBIT 9<sup>to</sup>

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# Sisters of Vallejo police shooting victim meet with Biden-Harris transition team

By Melanie Woodrow

Wednesday, November 25, 2020 4:53PM

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Michelle and Ashley Monterroso's brother Sean was killed in June by a Vallejo police officer. This week, the sisters had the opportunity to share their story with transition team policy advisors.

VALLEJO, Calif. (KGO) -- Two Bay Area sisters could have an impact on President-elect Joe Biden and Vice President-elect Kamala Harris' first 100 days in office.

Michelle and Ashley Monterroso's brother Sean was killed in June by a Vallejo police officer.

This week, the sisters had the opportunity to share their story with transition team policy advisors.

**RELATED: Gov. Newsom 'open' to meeting with family of man shot, killed by Vallejo police**

Michelle and Ashley have been on a crusade for nearly six months.

"We need to have accountability for police violence," said Michelle Monterrosa.

On June 2, a Vallejo police officer shot and killed their brother Sean, who was 22-years-old.

The officer fired from the backseat of an unmarked vehicle, hitting and killing Monterrosa, who was outside a Walgreens where there had been a looting. Vallejo Police said he was crouched down in a half kneeling position, moving his hands towards his waist area and revealing what appeared to be the butt of a handgun. It turned out to be a hammer.

**RELATED: Vallejo police officer shoots, kills 22-year-old after mistaking hammer for gun, chief says**

Earlier this week, the Grassroots Law Project invited the sisters to be on a call with the Biden-Harris transition team to discuss criminal justice policy proposals with the new administration.

"I was a little bit taken aback. One of the members of his transition team was like 'you know these are great policies these are great changes but they sound very localized,'" said Michelle.

"This is not a local issue, this is going on country-wide. Police brutality and police violence is happening in every state," said Ashley.

Also on the call was San Francisco District Attorney Chesa Boudin, who that same day announced manslaughter and weapons charges against a former San Francisco police officer for shooting and killing an unarmed man in 2017.

**VIDEO: Sisters of man shot, killed by Vallejo police arrested outside Gov. Newsom's home for protesting**

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Governor Gavin Newsom is responding to the arrest of two sisters outside his home, who were protesting on the anniversary of their brother being shot and killed by Vallejo Police.

Boudin said it was the first prosecution against a law enforcement officer in San Francisco's history.

The sisters say Solano County District Attorney Krishna Abrams, who recused herself from the Monterrosa case, was not on the call.

"You can charge officers, if you see Chesa doing it she can do it as well. I just hope it's a domino effect for other DAs all around California," said Michelle.

Michelle and Ashley say they were honored to have a seat at the table and hope it makes a difference.

"This is going to be one of the most hardest holiday seasons for us and it hurts, you know, Sean's not here but under their administration what can they ensure that there is no other families joining this group that no one wants to be a part of that's where I really want to hold them accountable that we don't see more officer involved shootings under the Biden administration," said Michelle..

**RELATED: Vallejo police release bodycam video from fatal shooting of Sean Monterrosa**

The Grassroots Law Project shared the following with ABC7 News:

"On Monday November 23rd, the Department of Justice Biden transition team invited the Grassroots Law Project to a meeting to discuss key criminal justice policy proposals the new administration could implement on day one through executive actions. The meeting followed the Grassroots Law Project's Biden Justice Demands campaign, where volunteers made thousands of calls and sent over a hundred thousand emails and petition signatures pushing for transformational change to mass incarceration and policing. Those at the meeting included Shaun King with staff from the Grassroots Law Project and leading reform prosecutors Suffolk County District Attorney Rachel Rollins, Philadelphia District Attorney Larry Krasner, San Francisco District Attorney Chesa Boudin, and Aramis Ayala, State's Attorney for the Nine Judicial Court of Florida (Central Florida). Joining them were Sean Monterrosa's sisters, Ashley and Michelle Monterrosa, and Botham Jean's sister, Allisa Findley."

"It is important that people impacted by the police violence speak to the Biden transition team in order for President-elect Biden and his team to understand the real impact a lack of police accountability has on families," said Chris Lazare the Organizing Director for Grassroots Law Project.

"President-elect Biden has a chance to prove that he has our back like he promised by implementing key policy changes on day one."

Ideas presented by the group included:

- Significantly shrinking the federal incarcerated population and supervision system by increasing the use of clemency and decreasing certain federal prosecutions
- Changing who holds power by appointing public defenders and civil rights leaders to key positions within the Department of Justice
- Drastically overhauling and improving the DOJ's investigations into law enforcement & prosecutor misconduct
- Prioritizing changes to the criminal legal system in the Biden budget.

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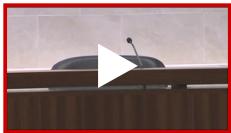
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